

Message Text

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ACTION AF-04

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FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC PRIORITY 9366

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AMEMBASSY LONDON

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USIA FOR IAA

E.O. 11652: N/A

TAGS: BDIS CPRS KE US

SUBJECT: SAUL/MILLER CASE

1. STRONG POSSIBILITY OF STORY ON SAUL/MILLER CASE IN
LONDON SUNDAY TIMES BY DAVID HOLDEN ON 29 SEPTEMBER AND
WASHINGTON POST WEEK OF 30 SEPTEMBER BY DAVID OTTAWAY,
INCLUDING REFERNCE TO JANUARY 1974 EXPULSION ESSO'S
SKANE. WE ALSO HAVE INDICATIONS THAT TIME MAGAZINE,
AND NEW YORK TIMES, WILL PICK UP POST STORY, PROBABILITY
OF INTERNATIONAL HERALD TRIBUNE, NEWSWEEK AND BUSINESS
WEEK COVERAGE; POSSIBLY OTHERS.

2. OTTAWAY AND HOLDEN BOTH HAVE CONTACTED EMBASSY,
ASKING WHAT EMBASSY POSITION HAS BEEN ON CASE AND WHAT
ACTION EMBASSY HAS TAKEN. I MET SEPARATELY WITH BOTH
OTTAWAY AND HOLDEN, AND TOLD THEM IN SUBSTANCE FOLLOWING:
I HAVE TAKEN AN INTEREST IN THE SAUL/MILLER CASE AND
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HAVE SO EXPRESSED MYSELF ORALLY TO SEVERAL APPROPRIATE

KENYAN GOVERNMENT OFFICIALS, AND, ON INSTRUCTIONS FROM WASHINGTON, BY AN OFFICIAL, DELIVERED WRITTEN PROTEST TO THE FOREIGN MINISTRY. THERE ARE THREE REASONS FOR U.S. EMBASSY INTEREST: FIRST, REGARDING THE RIGHTS OF AN AMERICAN CITIZEN. WHILE RECOGNIZING THAT ANY COUNTRY HAD THE RIGHT TO DEPORT ANY FOREIGNER, THE EMBASSY HAD OBJECTED TO THE MANNER IN WHICH SAUL WAS ASKED TO LEAVE KENYA; HE WAS ONLY GIVEN FEW HOURS' NOTICE AND THE EMBASSY WAS NOT NOTIFIED. SECOND, IN THE INTERESTS OF THE AMERICAN BUSINESS COMMUNITY IN KENYA, FOR IT TO KNOW THAT THE EMBASSY IS INTERESTED IN THEIR WELFARE; THIRDLY, DESPITE THESE PROBLEMS THE EMBASSY REMAINS OPTIMISTIC REGARDING THE FUTURE OF KENYA.

3. IN VIEW STRONG POSITION I HAVE TAKEN WITH GOK, SHORT OF APPROACH TO PRESIDENT, I FELT A "NO COMMENT" POSITION WOULD BE INCONSISTENT. FURTHERMORE, A QUOTABLE STATEMENT OF MY OWN CHOOSING SHOULD FEND OFF SPECULATION OR MISINTERPRETATION (PARTICULARLY BY PRESIDENT) OF US POSITION RE CASE.

4. FOLLOWING PARAGRAPHS CONTAIN CONTINGENCY PRESS GUIDANCE WE PLAN TO USE IN RESPONDING TO POSSIBLE QUERIES FROM WESTERN PRESS ONCE STORY BREAKS.

5. IF ASKED WE WILL CONFIRM THAT TWO AMERICAN BUSINESSMEN HAVE BEEN EXPelled FROM KNEYA SINCE THE BEGINNING OF 1974 AS "PROHIBITED IMMIGRANTS". JAMES SKANE, GENERAL MANAGER OF ESSO KENYA, WAS DEPORTED JANUARY 14 AND JOHN SAUL, AMERICAN MINING GEOLOGIST, WAS DEPORTED JUNE 18.

6. IN RESPONSE TO FURTHER QUERIES, WE PLAN TO STATE THAT EMBASSY WAS NOT GIVEN SPECIFIC REASONS BY THE KENYA GOVERNMENT FOR THE DEPORTATIONS, AND IS UNABLE TO COMMENT OFFICALLY ON THE STORIES PUBLISHED OTHER THAN TO CONFIRM THAT EXPULSIONS TOOK PLACE AD THAT STRONG PROTESTS WERE LODGED IN EACH CASE WITH THE GOVERNMENT OF KENYA. NO REPLIES TO OUR WRITTEN PROTESTS HAVE BEEN RECEIVED FROM THE KENYAN GOVERNMENT.

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7 IF ASKED ABOUT THE LEGALITY OF THE KENYAN GOVERNMENT'S ACTIONS, WE WILL REPLY THAT INTERNATIONAL LAW RECOGNIZES THE RIGHT OF EACH SOVEREIGN STATE TO EXPEL ANY ALIEN IT WANTS TO, BUT THAT THIS RIGHT IS LIMITED BY CERTAIN STANDARDS OF CONDUCT SUCH AS GIVING THE PERSON CONCERNED THE OPPORTUNITY TO PROTECT HIS PROPERTY BEFORE LEAVING THE COUNTRY AND PROVIDING AN EXPLANATION TO THE PERSON'S GOVERNMENT OF THE GROUNDS FOR EXPULSION. OUR PROTESTS

NOTED THAT THESE TWO CONDITIONS HAD NOT BEEN MET IN THESE CASES AND EXPRESSED OUR CONCERN OVER THE POSSIBLE EFFECTS OF SUCH ACTIONS BY THE THE KENYAN GOVERNMENT ON THE EFFORTS MADE BY US GOVERNMENT TO ENCOURAGE AMERICAN BUSINESS AND INVESTMENT ACTIVITIES IN KENYA.

8. IF ASKED ABOUT STATUS OF AMERICANS EXPELLED, WE PLAN TO REPLY BOTH WERE RESIDING IN KENYA LEGALLY, AND INSOFAR AS WE CAN DETERMINE, WERE OPERATING IN FULL COMPLIANCE WITH LAWS OF KENYA.

9. IF ASKED WHY FOREIGN CORRESPONDENTS HAD NOT SENT STORIES ON THESE INCIDENTS BEFORE NOW, WE WILL SAY ANSWER IS TO ASK THEM.

10. IF ASKED WHETHER MILLER IS STILL IN KENYA, WE PLAN TO REPLY THAT WE HAVE NO KNOWLEDGE OF HIS DEPARTURE.

11. IF ASKED WHETHER WE CAN CONFIRM PERSONAL INVOLVEMENT IN CASE OF KENYANS NAMED IN PRESS ARTICLES, WE PLAN TO SAY THAT EMBASSY'S CONCERN IS WITH RIGHTS OF AMERICANS INVOLVED AND NOT WITH OTHER ASPECTS OF CASE.

12. IF ASKED WHETHER PRESIDENT KENYATTA'S DEBT TO ESSO FOR OIL DELIVERED TO HIS NAKURU FARM HAS BEEN PAID AS YET, WE WILL STATE THAT THIS IS A MATTER FOR ESSO TO ANSWER.

13. IF ASKED WHETHER THESE INCIDENTS WILL HAVE AN ADVERSE EFFECT ON AMERICAN INVESTMENT IN KENYA, WE PLAN TO RESPOND THAT WE ARE HOPEFUL THAT THESE ARE BUT ISOLATED OCCURRENCES IN A GENERALLY FAVORABLE INVESTMENT CLIMATE.

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14. IF ASKED ABOUT PRESENT STATUS OF SAUL'S RUBY CLAIM, WE PLAN TO RESPOND THAT QUESTION OF WHO HAS LEGAL RIGHT TO MINE CLAIM IS NOW UNDER LITIGATION IN THE KENYA COURTS. THIS LITIGATION WAS INITIATED BY SAUL.
MARSHALL

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